

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region III - 6th & Walnut Sts.
Philadelphia, Pa. 19106

SUBJECT: The Effects of RCRA on Army Creek Landfill

DATE: AUG 3 1978

FROM: John J. Humphries, III *John J. Humphries*
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TO: Robert L. Allen
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In Section 4 of the Resource Conservation and Recovery Act of 1976 (RCRA), Congress authorized as much as \$650,000 in financial assistance for Army Creek Landfill corrective measures. To date, \$50,000 has been allocated through the Office of Research and Development for discussion of possible solutions to the landfill problem. This resulted in a November, 1977, roundtable discussion of experts who recommended hydrogeologic isolation of the landfill and pumping leachate from the landfill into an existing sewer line.

Section 4004 of RCRA deals with classification of disposal facilities as either environmentally sound, sanitary landfills or "open dumps". According to the proposed criteria for classification of solid waste disposal facilities published in the Federal Register on February 6, 1978, Army Creek Landfill would probably be classified an open dump. However, abandoned facilities will be classified as open dumps at the discretion of the State. Unless inactive sites pose a threat to health or the environment, a State may elect not to classify closed facilities. Once the open dump determination is made, all sites will be placed on a national list of open dumps for publication. The open dumps will then be subject to citizen suits pursuant to Section 7002 of RCRA. State plans are to include provisions to upgrade or properly close designated open dumps within a five year period through effective compliance schedules according to Section 4005 of RCRA. The 4004 criteria will become effective one month after promulgation, which is estimated to be early 1979.

There are a few basic questions to be answered before Army Creek Landfill is found to be subject to the Hazardous Waste Regulations under Subtitle C of RCRA. Is a municipal waste landfill which occasionally accepted hazardous wastes now designated a hazardous waste landfill? Can a landfill operator be subject to proper disposal regulations if materials he received in 1968 were not designated hazardous wastes until 1979 under RCRA? Specific procedures to deal with abandoned hazardous waste facilities as outlined in Section 3004 draft regulations have not been determined to date. The entire series of Hazardous Waste Regulations will not become effective until at least a year from now. The applicability of the Hazardous Waste Regulations to abandoned or closed landfills will be determined when certain issues are resolved in Headquarters.

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Technical assistance to New Castle County is also available through the Technical Assistance Panels described in Section 2003 of RCRA. However, considering a feasible solution was suggested in November at the roundtable discussion, an Army Creek request may be given a lower priority than other problem areas in the State requesting technical assistance.

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The Imminent Hazard provision in Section 7003 of RCRA can be interpreted in two ways. At the present time, the public health of local residents is not in jeopardy. Contaminated wells are shut down and counter pumping operations are presenting further migration of leachate in the aquifer. In this case, there is no immediate cause for alarm.

On the other hand, contamination of the groundwater has occurred and probably will continue to occur if saturated conditions are maintained in the landfill. If counter pumping operations were halted or became ineffective, contaminated groundwater would proceed to other neighboring drinking water wells creating a health hazard. If this situation was determined to be serious enough to be declared an imminent hazard, the Administrator could bring suit against the responsible person restraining that party from further illicit operations.

Regardless of existing confusion on where responsibilities lie, Army Creek Landfill and Delvarsano Landfill are subject to the same regulations under RCRA.

cc: William H. Schremp
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